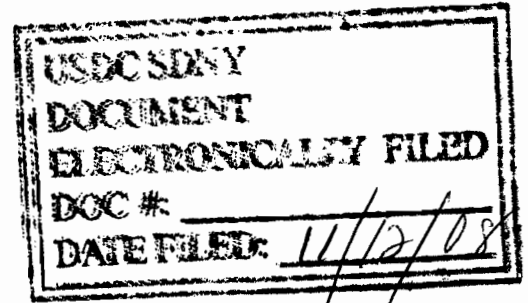


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



----- X  
:  
IN RE: METHYL TERTIARY BUTYL :  
ETHER ("MTBE") PRODUCTS :  
LIABILITY LITIGATION :  
----- :

ORDER TO SHOW CAUSE

This document relates to:

Master File No. 1:00-1898  
MDL 1358 (SAS)  
M21-88

City of Merced Redevelopment Agency v. :  
ExxonMobil Corp. et al., No. 08-CV-6306 X  
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**SHIRA A. SCHEINDLIN, U.S.D.J.:**

This action was removed on May 21, 2008 to federal court pursuant to Section 1503 of the Energy Policy Act of 2005, Pub. L. No. 109-58 (2005).

Defendants are ordered to show cause, by November 20, 2008, why this action

In Re: Methyl Tertiary Butyl Ether ("MTBE") Products Liability Litigation

Doc. 2126

should not be remanded to state court because it does not "aris[e] under" federal

law within the meaning of Article III of the Constitution, given that no federal

issue appears to be stated in the complaint or the removal petition. *See Verlinden*

*B.V. v. Central Bank of Nigeria*, 461 U.S. 480, 491 (1983) ("Congress may not

expand the jurisdiction of the federal courts beyond the bounds established by

[Article III of ] the Constitution."); *Mesa v. California*, 489 U.S. 121, 137 (1989)

(interpreting federal officer removal statute to require the presentation of a federal

defense on the face of the removal petition and noting that a contrary

interpretation “would eliminate the substantive Art. III foundation of [the statute] and unnecessarily present grave constitutional problems”); *cf. id.* at 136 (holding that federal officer removal statute “is a pure jurisdictional statute” that cannot “independently support Art. III arising under jurisdiction”). If plaintiffs elect to respond, they must do so by December 2, 2008.

Dated: New York, New York  
November 10, 2008

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Shira A. Scheindlin', written over a horizontal line.

Shira A. Scheindlin  
U.S.D.J.

**-Appearances-**

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